



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

Draft

Date Amended:	04/01/04	Bill No:	SB 1882
Tax:	Special Taxes	Author:	Senate Revenue and Taxation Committee
Board Position:	Support Board-sponsored	Related Bills:	

BILL SUMMARY

This bill contains Board of Equalization-sponsored provisions for the special taxes and fees programs, which would do the following:

- Amend Section 43152.14 of the Revenue and Taxation Code to delete the requirement to file a return for the Childhood Lead Poisoning Prevention Fee.
- Amend Sections 43201 and 55061 of the Revenue and Taxation Code to make it clear that when the Board collects a tax or fee assessed by another state agency, that it is appropriate for the Board to issue a notice of determination as the billing mechanism.
- Amend Sections 43350, 45351, 46301, 50120.1, and 55101 of the Revenue and Taxation Code to delete obsolete section references.
- Amend Section 46156 of the Oil Spill Response, Prevention, and Administration Fee Law to authorize the Board to grant relief of the penalty for failure to file an information report for the Oil Spill Response Fee.

ANALYSIS

Childhood Lead Poisoning Prevention Fee return clarification *Revenue and Taxation Code Section 43152.14*

Current Law

Under the existing Hazardous Substances Tax Law, Section 43152.14 provides that the Childhood Lead Poisoning Prevention Fee is due and payable on April 1 of each year and that a feepayer shall file a return in the form as prescribed by the Board. The Hazardous Substance Tax Law contains the administrative and collection provisions for the Childhood Lead Poisoning Prevention Fee, which is imposed pursuant to Section 105310 of the Health and Safety Code. The fee is administered and collected by the Board in cooperation with the Department of Health Services (DHS).

Background

In 2002, Assembly Bill 1936 (Ch. 450) amended Section 43152.14 to authorize a feepayer to file an electronic return, and for returns to be authenticated as prescribed by the Board. However, the DHS subsequently adopted regulations that changed the method of collecting the Childhood Lead Poisoning Prevention Fee from a return, where a feepayer self-reports the amount of the fee due, to a bill of the fee amount.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.

Proposed Law

This bill would amend Section 43152.14 of the Revenue and Taxation Code to delete the requirement to file a return for the Childhood Lead Poisoning Prevention Fee.

Comments

This provision would delete the requirement for filing a return and the methods for authenticating such returns for purposes of the Childhood Lead Poisoning Prevention Fee in order to conform to DHS regulations.

Delete obsolete references

Revenue and Taxation Code Sections 43201 and 55061

Current Law

Existing Hazardous Substances Tax Law (Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code) is utilized by the Board to administer and collect many different taxes or fees, including the Childhood Lead Poisoning Prevention Fee assessed by the DHS, and various "activity fees" (including permit application fees, permit modification fees and site remediation oversight fees) assessed by the Department of Toxic Substances Control. The terms "fee" and "tax" are used interchangeably in the collection provisions of the Hazardous Substances Tax Law.

In addition, under the Fee Collection Procedures Law (Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code) the Board administers and collects the California Tire Fee, Ballast Water Management Fee, and the Natural Gas Surcharge. Effective January 1, 2004, the Fee Collection Procedure Law may also be used to administer and collect the Covered Electronic Waste Recycling Fee, Water Rights Fee, and the manufacturer and importer administration fee imposed under the Cigarette and Tobacco Products Licensing Act of 2003.

Background

The Fee Collection Procedures Law contains "generic" administrative provisions for the administration and collection of fee programs to be administered by the Board. The Fee Collection Procedures Law was added to the Revenue and Taxation Code to allow bills establishing a new fee to be collected by the Board to reference this law, thereby only requiring a minimal number of sections within the bill to provide the necessary administrative provisions. Among other things, the Fee Collection Procedures Law includes collection, reporting, refund and appeals provisions, as well as provides the Board the authority to adopt regulations relating to the administration and enforcement of the Fee Collection Procedures Law.

Currently, the Hazardous Substances Tax Law and the Fee Collection Procedures Law specify in Sections 43201 and 55061, respectively, that a determination may be made if the Board is dissatisfied with the return filed or the amount of the fee paid to the state by any feepayer, or if no return has been filed or no payment of the fee has been made. This language assumes that the tax or fee will be remitted and reported on a return, and does not expressly allow the Board to issue a notice of determination when the amount to be collected is based on an assessment by another state agency, on a calculation by the Board, or on a fee amount fixed by statute for which no return is required to be filed.

Proposed Law

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This bill would amend Sections 43201 and 55061 of the Revenue and Taxation Code to make it clear that when the Board collects a tax or fee assessed by another state agency, that it is appropriate for the Board to issue a notice of determination as the billing mechanism.

Comments

These provisions would clarify that, under circumstances when the Board is authorized to collect a tax or fee that is either assessed by another state agency or calculated by the Board and collected for another state agency, or fixed by statute and collected by the Board without the requirement to file a return, it is appropriate for the Board to issue a notice of determination or other similar billing document for that purpose. This provision would also correct typographical errors.

Delete obsolete sections

Revenue and Taxation Code Sections 43350, 45351, 46301, 50120.1, and 55101

Current Law

Under existing law, Sections 43350, 45351, 46301, and 55101 of the Revenue and Taxation Code provide that if the amount of tax, interest, and penalty specified in a jeopardy determination is not paid, or a petition for redetermination is not filed, within 10 days after the service upon the taxpayer of notice of the determination, the determination becomes final, and the delinquency penalty and interest shall attach to the amount of tax specified. These jeopardy determination statutes in the Hazardous Substance Tax Law, Integrated Waste Management Fee Law, Oil Spill Response, Prevention and Administration Fee law, Underground Storage Tank Maintenance Fee Law, and Fee Collections Procedures Law reference Sections 43156, 45154, 46155, 50112.1, and 55043, respectively, for purposes of imposing delinquency interest.

Background

In 2000, AB 2894 (Chapter 923) combined the delinquency penalty and interest provisions into one statute. As such, AB 2894 resulted in the repeal of Sections 43156, 45154, 46155, 50112.1, and 55043 and therefore made obsolete the references to those sections in Section 43350, 45351, 46301, and 55101.

Proposed Law

This bill would amend Sections 43350, 45351, 46301, 50120.1, and 55101 of the Revenue and Taxation Code to delete obsolete section references.

Comment

These provisions would simply delete the obsolete section references in order to avoid confusion for taxpayers. The Board would continue to impose the delinquency penalty and interest as provided in existing law.

Relief of Penalty

Revenue and Taxation Code Section 46156

Current Law

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Under the existing Oil Spill Response, Prevention, and Administration Fee Law, Section 46154.1 of the Revenue and Taxation Code allows for a penalty of five hundred dollars (\$500) if the annual information return for the Oil Spill Response Fee is not filed on time.

Section 46156 of the Oil Spill Response, Prevention, and Administration Fee Law provides that if the Board finds that a person's failure to make a timely return or payment is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the penalty as provided in specified sections.

Background

In 2000, when Section 46154.1 was added to the Oil Spill Response, Prevention, and Administration Fee Law, Section 46156 should have been amended to include a reference to Section 46154.1 among the penalties that may be relieved by the Board.

Proposed Law

This bill would amend Section 46156 of the Oil Spill Response, Prevention, and Administration Fee Law to authorize the Board to grant relief of the penalty for failure to file an information report for the Oil Spill Response Fee.

Comment

Consistent with other fees and taxes administered by the Board, this provision would allow the Board, under certain circumstances, to relieve the feepayer of the penalty for failure to make a timely information return when such failure is due to reasonable cause and circumstances beyond the persons control.

COST ESTIMATE

Any costs associated with these Board-sponsored provisions would be insignificant (under \$10,000).

REVENUE ESTIMATE

These Board-sponsored provisions would not impact on state revenues.

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